THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.9348 OF 2005

Between:

E.Kanaka Raju son of E.Kistaiah

…….Petitioner

vs.

The Managing Director, A.P.Power Generation Corporation Ltd., and two others.

…….Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

W.P.NO.9348 OF 2005

ORAL ORDER

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The petitioner in substance seeks appointment to the employment of the APGENCO as the dependent of a medically invalidated employee of the said Corporation.

The petitioner's father was working as a Plant Assistant in the Central Stores Section in the Thermal Station, Ramagundam after having joined service in the A.P.S.E.B as a Helper. His date of superannuation was 31-12-2007. However, as he was suffering from knee pains he applied for relief of medical grounds, was examined by the Medical Board, a certificate granted to the effect that he is not fit for continue in service and he relieved from service by the issuance of a memo dated 19-08-2002 and with effect from the said date. It is stated that the petitioner's father also died thereafter, on 13-09-2004.

Earlier the petitioner submitted a representation dated 28-08-2002 requesting appointment on compassionate basis. This was recommended by the Divisional Engineer concerned on 28-08-2002 to the Superintending Engineer concerned. Thereafter the 2nd respondent by the proceedings dated 17-08-2004 rejected the petitioner's case on the basis of Government orders in G.O.Ms.Nos.202,203 and 305 dated 27-04-2002, 27-04-2002 and 17-07-2002 respectively. However, coming to know that the respondents had appointed some candidates who are children of employees retired on medical invalidation, the petitioner filed W.P.No.16076 of 2004. By the order dated 09-09-2004 the writ petition was disposed of directing the 2nd respondent to pass appropriate orders on the petitioner's representation and expeditiously.

After disposal of the writ petition the petitioner again represented on 28-09-2004 seeking employment on compassionate basis. As the representation was not responded to the petitioner also got issued a contempt notice. Eventually the 3rd respondent issued the impugned order dated 06-04-2005 which reads as under:-

> " I am to invite attention to the ref. 3rd cited and to inform that in the G.O.Ms.No.202, dated 27-04-02, the Government of A.P has ordered to dispense with the scheme of compassionate appointment to dependents of Government employees who retire on medical invalidation in the light of the Hon'ble High Court of A.P Judgment dtd.d12-10-01 in W.P.No.13489/2000 and batch that the scheme of compassionate appointment to dependents of Government employees who retire on medical invalidation is unconstitutional and violative of the Article 16 of the Constitution of India. The said orders were adopted by APGENCO in memo dtd.29-01-04 and all the heads of units in APGENCO were requested to follow the orders scrupulously issued in the G.O.Ms.No.202, dtd.27-04-02 along with other

GOS referred therein.

In the circumstances explained above and in the light of the policy annunciated by the Government in their orders in G.O.Ms.No.202 referred to above the management is constrained to reject the case of Sri E.Kanaka Raju son of Sri E.Kistaiah, PA RTS, who retired on Medical Invalidation, for providing employment under the said scheme which is: and has been no longer inforce: and accordingly hereby reject the case of Sri E.Kanaka Raju."

It is now a settled principle that creating an exclusive avenue for public employment on compassionate basis for dependents of employees whose services were determined on the basis of medical invalidation, violates the explicit injunctions of Article 16(1) of the Constitution. Descent alone is a prohibited basis for grant of public employment. This principle has already been declared by the judgment of this Court, which has been referred to, in the impugned order. In the light of settled legal position the petitioner is not entitled to any relief.

The writ petition is accordingly dismissed. No order as to costs.

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GODA RAGHURAM,J

30TH DECEMBER 2005

***TSNR**